

**Exhibit 7**

**The February 2020 Letter**

# Akin Gump

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February 11, 2020

VIA E-MAIL

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Re: Quarterly Wrap Around Payment Shortfall

Dear John, Suzanne and Peter:

We represent certain federally qualified health centers located in Puerto Rico, Atlantic Medical Center, Inc., Camuy Health Services, Inc., Centro de Salud Familiar Dr. Julio Palmieri Ferri, Inc., Ciales Primary Health Care Services, Inc., Corp. de Serv. Médicos Primarios y Prevención de Hatillo, Inc., Costa Salud, Inc., Centro de Salud de Lares, Inc., Centro de Servicios Primarios de Salud de Patillas, Inc., and Hospital General Castañer, Inc. (collectively, the “FQHCs”).

You may recall that, back in April, 2019, I reached out to you with respect to failure by the Commonwealth of Puerto Rico (the “Commonwealth”) to make quarterly wrap around payments to the FQHCs in accordance with prior orders issued by the United States District Court of Puerto Rico ( the “District Court”).

After months of negotiations, in July, 2019, the parties entered into a stipulation with respect to certain relief from the automatic stay ( the “Stipulation”) which provides for the Commonwealth to make quarterly wrap around payments to the FQHCs, beginning with the first quarter of 2019. Unfortunately, the Commonwealth has failed to perform its obligations under the Stipulation



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with respect to each of the 2019 quarterly wrap around payments owed to the FQHCs which is why I am again contacting you.

Specifically, the dollar amount of each quarterly wrap around payment made by the Commonwealth for 2019 is insufficient and is not in compliance with the agreed upon terms of the Stipulation or the prior orders issued by the District Court. Attached please find a spreadsheet showing the amount of the shortfall in each quarterly wrap around payment for 2019.

On November, 18, 2019, co-counsel, Nicole Bacon, provided notice of the FQHCs' intention to seek further relief from the automatic stay in order to enforce the Stipulation and to collect the shortfall in the amount owed to the FQHCs (see attached). Over two months have elapsed since the giving of that notice and there has been no resolution of the issues set forth in the notice.

On Friday, January 31, 2020, Ms. Bacon received a spreadsheet from the Commonwealth (see attached) of the calculations of the quarterly wrap around payments made by the Commonwealth for 2019. The spreadsheet clearly demonstrates that Ms. Bacon was correct in her statements in the November 18, 2019 notice as to the Commonwealth's calculation errors. Specifically, in the calculation of the quarterly wrap around payments, the Commonwealth averaged calculated amounts with the payments from the fourth quarter of 2018 (which are based on the old rates) and the Commonwealth applied averaging of the two prior quarters for each subsequent payment. The Stipulation and the District Court orders provide that the Commonwealth is to apply the new PPS rates to the agreed upon formula and there is nothing in the Stipulation or the District Court orders that authorizes the Commonwealth to use averaging in the calculation of the quarterly wrap around payments.

The Commonwealth has also not been complying with its obligations under Medicaid and other applicable federal laws with respect to the FQHCs. Specifically, the Commonwealth must ensure the FQHCs receive full payment of the per visit rates set forth in Exhibit A of the Stipulation no less frequently than every four months. The Commonwealth has yet to implement a system whereby the FQHCs and other entities covered by the statutes within the Commonwealth can bill and be paid on that basis. The quarterly wrap around payments as provided for in the District Court orders and the Stipulation are designed to be merely a

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temporary solution for the Commonwealth's lack compliance and serve as only a proxy to the actual payment obligation.<sup>1</sup>

The FQHCs are trying to resolve the existing payment shortfall for 2019 with respect to the quarterly wrap around payments without having to file a motion seeking to lift the automatic stay before the District Court, which would draw attention to the Commonwealth's failure to comply with the Stipulation, existing District Court orders, the Medicaid statute and other federal laws.<sup>2</sup> Ms. Bacon and I are willing to participate on a call to try to resolve the dispute between the parties. The FQHCs request payment from the Commonwealth of \$ \$7,664,073.10 for the shortfall in the calculations for the 2019 quarterly wrap around payments. This amount is more than a quarter's worth of payments for 2019 under the agreed upon formula. If that amount is not paid, the FQHCs will have no option but to file such a motion seeking to lift the automatic stay.

Sincerely,



Lisa G. Beckerman

Attachments

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<sup>1</sup> The Commonwealth's ongoing failure to comply with its obligations under Medicaid and other applicable federal laws with respect to the FQHCs results in the Commonwealth's financial obligations under those statutes continuing to accrue and many years of such obligations remain unreconciled and unpaid. In addition to changes needing to be implemented in the Commonwealth so that the Commonwealth can comply with such federal statutes on a go forward basis, the Commonwealth's every growing financial obligations to the FQHCs need to be reconciled and paid.

<sup>2</sup> The FQHCs also want to insure that the calculations made by the Commonwealth for quarterly wrap around payments for 2020 will be made in compliance with the Stipulation and District Court Orders.



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